

Before the
Administrative Hearing Commission
State of Missouri



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JAN 2 1998

MISSOURI STATE COMMITTEE
OF PSYCHOLOGISTS

STATE COMMITTEE OF
PSYCHOLOGISTS,

Petitioner,

vs.

SCOTT GORDON,

Respondent.

No. 98-000018 PS

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 1996, gives us jurisdiction.

On January 12, 1998, the parties filed a "Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. We find that the facts stipulated are true. We conclude that the licensee is subject to discipline under section 337.035.2(5) and (6), RSMo, 1994 and 4 CSR 235-5.030(10)(A), (C) and (D). We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order under 1 CSR 15-2.450(1)(B). We certify the record to the licensing agency under section 621.110, RSMo 1994.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, cited above. This is consistent with the holding that we have no role in superintending agency compliance with statutory procedures. *Missouri Health Facilities Review Committee v. Administrative Hearing Commission*, 700 S.W.2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied.

SO ORDERED on January 21, 1998.

A handwritten signature in cursive script, reading "Willard C. Reine".

WILLARD C. REINE
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
JAN 12 1998
ADMINISTRATIVE HEARING
COMMISSION

STATE COMMITTEE OF PSYCHOLOGISTS,
3605 Missouri Boulevard
Jefferson City, MO 65102

Petitioner,

v.

SCOTT GORDON,
2503 Jackson
Joplin, MO 64804

Respondent.

No. 98 000018 PS

JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND
STATE COMMITTEE OF PSYCHOLOGISTS AND CONSENT ORDER
WITH JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of § 536.060, RSMo 1994, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 1994, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the State Committee of Psychologist under § 621.135, RSMo 1994, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the psychologists license of Respondent for violations of statutes set forth below.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the State Committee of Psychologists in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

The Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the complaint served upon him by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, the Respondent, Scott Gordon, knowingly and voluntarily waives each and every one of these rights but only with respect to the joint stipulations of fact and law contained herein; and, he freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

Based upon the foregoing, the Petitioner and the Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The State Committee of Psychologists (the "Committee") is an agency of the state of Missouri created and established pursuant to § 337.050, RSMo 1994, for the purpose of executing and enforcing the provisions of Chapter 337, RSMo.
2. Scott Gordon (the "Respondent") is licensed by the Committee as a psychologist, License No. PY01320. The Respondent's Missouri license is current and active.
3. Beginning on or about June 6, 1995, Respondent commenced family therapy with grandmother V.J., father M.J., step-mother M.J. and children C.J. and A.J..
4. C.P. is the natural mother of C.J. and A.J. and the ex-spouse of father M.J.
5. On or about July 17, 1995, Respondent met with grandmother V.J., father M.J., step-mother M.J. and natural mother C.P. regarding family therapy issues and Respondent's care and treatment of C.J. and A.J..
6. Respondent did not at any time obtain a consent for release of information from C.P. pertinent to the treatment of patients C.J. and A.J..
7. Subsequent to the July 17, 1995 meeting, Respondent prepared and submitted to an attorney for father M.J. a diagnostic report including impressions and

conclusions of C.P. in that Respondent indicated that based upon his one time meeting with C.P. and subsequent telephone conversations, he determined that she exhibited signs of borderline personality disorder.

8. Respondent released information about C.P. to a third party without first advising C.P..
9. Respondent failed to inform C.P. that he had been retained by father M.J. to serve as an expert witness in a custody dispute involving C.P.. However, at the time of the aforementioned in-person meeting and subsequent telephone calls, Respondent had not been retained as an expert witness, and Respondent had no further contact with C.P..
10. Respondent rendered diagnostic impressions and conclusions about C.P. without first performing any generally accepted and required psychological tests and/or evaluations.
11. Respondent rendered diagnostic impressions and conclusions about C.P. without performing an intake assessment of C.P..
12. Respondent rendered diagnostic impressions and conclusions of C.P. based upon information obtained from third parties, a one time personal observation and subsequent telephone conversations.
13. Respondent failed to inform C.P. of his diagnostic impressions and conclusions. C.P. became aware of Respondent's diagnostic impressions and conclusions during custody proceedings involving C.P. and M.J..

14. Respondent acted inappropriately by rendering diagnostic impressions and conclusions without sufficient information and opportunity to observe C.P. and by failing to include deficiencies of the assessment norms of C.P. in his report.

JOINT PROPOSED CONCLUSIONS OF LAW

1. Cause exists for discipline against Respondent's psychologist license pursuant to § 337.035.2(5) and (6), RSMo 1994 which provides:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes;

...

- (5) . . . , misconduct, . . . in the performance of the functions or duties of any profession licensed or regulated by this chapter;

...

- (6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

...

2. 4 CSR 235-5.030 provides:

- (1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of a psychologist is measured.

(B) Scope. The psychologist shall be governed by these ethical rules of conduct whenever providing psychological services in any context. These ethical rules of conduct shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training and employment which is required for licensure. The term psychologist, as used within these ethical rules of conduct, shall be interpreted accordingly whenever psychological services are being provided in any context.

(C) Responsibility for Own Actions. The psychologist, when functioning as a licensed psychologist, shall be fully responsible for his/her own professional decisions and professional actions.

(E) Aids to Interpretation. The Ethical Principles of Psychologists, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services promulgated by the American Psychological Association shall be used as an aid in resolving ambiguities which may arise in the interpretation of the ethical rules of conduct, except that these ethical rules of conduct shall prevail whenever any conflict exists between these rules and any professional association standard.

3. Respondent's conduct as set forth herein violates the following Ethical Rules of Conduct in full force and effect at the time of the actions set forth herein:

(10) Assessment Procedures.

(A) Competent Use of Assessment Techniques. The psychologist uses, administers and interprets psychological assessment techniques competently and maintains current knowledge about research developments and revisions concern the techniques that are used.

(C) Communication of Results. The psychologist shall accompany communication of results of assessment procedures to the client, parents, legal guardians or other agents of the client by adequate interpretive aids or explanations.

(D) Reservations Concerns Results. The psychologist shall include in his/her report of the results of an assessment procedure any deficiencies of the assessment norms of the individual assessed and any relevant reservations of qualifications which affect the validity, reliability or other interpretation of results.

II

DISCIPLINARY ORDER

A. By agreement of the parties, License No. PY01320 of Scott Gordon is placed on PROBATION for a period of EIGHTEEN (18) MONTHS under the following terms and conditions:

I. Respondent must complete two education courses, one on the topic of professional ethics and one on the topic of evaluation and assessment techniques,

which courses must be approved by the State Committee of Psychologists. Such course must be taken in a department of psychology from a regionally accredited university for graduate credit of no less than three (3) semester hours. The Respondent must obtain a grade of B or higher in the course. Readings courses, correspondence courses or independent study courses are unacceptable.

II. During the probationary period, Respondent must inform Respondent's employers that Respondent's work as a professional psychologist is under probation by the State Committee of Psychologists.

III. While engaging in practice involving child custody cases during the probationary period, Respondent's practice as a professional psychologist shall be supervised by a psychologist approved by the State Committee of Psychologists. Respondent's practice, involving other than custody cases, shall not be subject to supervision pursuant to this agreement. If Respondent has failed to secure a supervisor within twenty (20) business days from the start of probation the Respondent shall cease practicing psychology until a supervisor is secured. Respondent shall be responsible for any payment associated with the supervision. Supervision includes, but is not limited to, on site face-to-face review of cases, and review of written reports such as case notes, intake assessments, test reports, treatment plans, and progress reports.

IV. Within twenty (20) business days of the effective date of this Joint Stipulation, Respondent shall submit a list of no less than five (5) proposed psychologists to supervise Respondent's practice as a professional psychologist. The Committee may approve a psychologist from this list or may require a second list of five (5) psychologists which the Respondent shall submit within twenty (20) business days of the Committee's request. Monitoring is defined as one hour per week of individual, face-to-face discussions reviewing clinical issues, case management, other professional activities (e.g. - self management, ethical issues, self monitoring, mental status, behavioral etc.) in monitor's or Respondent's office. If Respondent has failed to secure a monitoring psychologist within twenty (20) business days from the start of probation, the Respondent shall cease practicing psychology until a supervising psychologist is secured. Respondent shall be responsible for any payment associated with the monitoring.

V. In the event the supervising psychologist becomes unable or decides not to continue serving in his/her capacity as a supervising psychologist or otherwise ceases to serve as a supervising psychologist during the period of probation, then, the Respondent shall:

a) within three (3) business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, advise the State Committee of Psychologists in writing that he/she is needing to secure a supervising psychologist and the reasons for such change; and

b) within twenty (20) business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, secure a supervising psychologist pursuant to and in accordance with the terms and conditions set forth in this Joint Stipulation. After twenty (20) business days, the Respondent shall not practice if he or she has not secured a supervisor.

VI. The supervising psychologist shall be vested with administrative authority over all matters affecting the provision of psychological health services in child custody cases provided by Respondent so that the ultimate responsibility for the welfare of every client is maintained by the supervising psychologist.

VII. Respondent's supervisor must report every six (6) months on Respondent's compliance with this Joint Stipulation.

VIII. Respondent may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.

IX. Respondent must keep the State Committee of Psychologists apprised at all times, in writing, of Respondent's current home and work addresses and telephone numbers.

X. Respondent is required to pay to the State Committee of Psychologists, in a timely fashion, all requisite fees required by law to renew and keep current Respondent's psychology license in Missouri.

XI. Respondent is required to comply with all provisions of Chapter 337, RSMo, the rules and regulations duly promulgated by the State Committee of Psychologists and state and federal criminal laws.

XII. Respondent must provide periodic reports of Respondent's compliance with this Joint Stipulation every six (6) months.

XIII. At Respondent's expense, Respondent must agree to meet with the State Committee of Psychologists at reasonable intervals designated by the Committee.

XIV. Upon the expiration of the disciplinary period, the Respondent's license as a psychologist in Missouri shall be fully restored, provided all provisions of this Joint Stipulation and all other requirements of law have been satisfied.

B. Respondent hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former Committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

C. Upon the expiration of the disciplinary period, the Respondent's license as a psychologist in Missouri shall be fully restored, provided all provisions of this Order and all other requirements of law have been satisfied.

D. If the State Committee of Psychologists determines that the Respondent has violated a term or condition of his discipline, or has otherwise failed to comply with the provision of Chapter 337 RSMo, which violation would be actionable in a proceeding

before the State Committee of Psychologists or the Administrative Hearing Commission or a circuit court, the State Committee of Psychologists may elect to pursue any lawful remedies or procedures afforded to it, and is not bound by this order in the selection of remedies concerning such violation. In the event that the State Committee of Psychologists determines that additional legal action is appropriate, the parties acknowledge that Respondent has not waived and may assert any and all defenses which he may have to such allegations and, furthermore, Respondent is entitled to all due process protections and legal remedies required by applicable Missouri and federal laws.

E. The parties to this Order understand that the State Committee of Psychologists will maintain this Order as an open record of the Committee as provided in Chapters 337, 610, and 620 RSMo.

RESPONDENT

STATE COMMITTEE OF
PSYCHOLOGISTS

Scott Gordon 12-9-97
Scott Gordon date
Respondent

Pamela Goose 1-7-98
Pam Goose date
Executive Director

Dana L. Frese 12-11-97
Dana Frese date
Attorney at Law

Penney R. Rector 1/2/98
Penney R. Rector date
Assistant Attorney General